

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

FAIR ISAAC CORPORATION, a Delaware corporation,)	
)	
)	Case No. 16-cv-1054(WMW/DTS)
)	
Plaintiff,)	
)	
v.)	
)	
FEDERAL INSURANCE COMPANY, an)	
Indiana corporation, and ACE AMERICAN)	
INSURANCE COMPANY, a Pennsylvania)	
corporation,)	
)	
Defendants.)	

JOINT MOTION REGARDING CONTINUED SEALING

Documents have been filed under temporary seal in connection with the following motion:

Plaintiff's Motion to Strike (Dkt. No. 224)

Defendants' Motion to Compel Discovery (Dkt. No. 235)

Pursuant to Local Rule 5.6, the parties submit this Joint Motion Regarding Continued Sealing.

DKT. NO.	DKT. NO. OF REDACTED VERSION (IF FILED)	DESCRIPTION OF DOCUMENT	<p>PRECISELY IDENTIFY:</p> <p>a) The information that the parties agree should remain sealed;</p> <p>b) The information the parties agree should be unsealed; and</p> <p>c) The information about which the parties disagree.</p>	<p>NONPARTY THAT DESIGNATED DOC. CONFIDENTIAL (IF ANY)</p>	<p>REASON WHY DOCUMENT SHOULD REMAIN SEALED OR BE UNSEALED</p>
237	N/A	Memorandum in Support of Defendant's Motion to Compel Discovery	<p>(a) The parties agree all redacted material shall remain sealed/redacted.</p> <p>(b) None.</p> <p>(c) None.</p>		<p>This document should remain sealed. The memorandum was filed under seal to protect FICO's commercially confidential information, which appears throughout the memorandum. The quoted testimony of William Waid in the memorandum reveals FICO's confidential pricing information and pricing processes, including its application-based pricing model. FICO would experience economic harm, including competitive harm, if the pricing information in this document was made public. FICO's competitors could use this information to target FICO's customers and undercut FICO's pricing. Public knowledge of FICO's pricing information would also place FICO at a disadvantage when negotiating with potential customers.</p> <p>This commercial information has been designated Confidential, Attorneys' Eyes Only under a protective order issued in this case (Dkt. No. 44) and should remain sealed.</p>

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239	N/A	Declaration of Christopher D. Pham in Support of Defendant's Motion to Compel Discovery	(a) None. (b) The parties agree this declaration should be unsealed. (c) None.		This document should be unsealed. This document does not contain any confidential information.

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240	N/A	Exhibits 1-2 to the Declaration of Christopher D. Pham in Support of Defendant's Motion to Compel Discovery	(a) The parties agree that Exhibit 1 should remain under seal. (b) The parties agree that Exhibit 2 should be unsealed. (c) None.		Exhibit 1 in this document should remain sealed. The Exhibit contains FICO's confidential pricing information and pricing processes, including its application-based pricing model. FICO would experience economic harm, including competitive harm, if the pricing information in this document was made public. FICO's competitors could use this information to target FICO's customers and undercut FICO's pricing. Public knowledge of FICO's pricing information would also place FICO at a disadvantage when negotiating with potential customers. This commercial information has been designated Confidential, Attorneys' Eyes Only under a protective order issued in this case (Dkt. No. 44) and should remain sealed. Exhibit 2 of this document should be unsealed. Exhibit 2 does not contain any confidential information.

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241	N/A	Exhibits 3-10 to the Declaration of Christopher D. Pham in Support of Defendant's Motion to Compel Discovery	(a) The parties agree this Exhibits 3-5, 7 should remain under seal. (b) The parties agree that Exhibits 6, 8-10 should be unsealed. (c) None.		Exhibits 3-5 and 7 in this document should remain sealed. The Exhibits contain documents and deposition testimony that reflect FICO's confidential pricing information and pricing processes, including its application-based pricing model. FICO would experience economic harm, including competitive harm, if the pricing information in this document was made public. FICO's competitors could use this information to target FICO's customers and undercut FICO's pricing. Public knowledge of FICO's pricing information would also place FICO at a disadvantage when negotiating with potential customers. This commercial information has been designated Confidential, Attorneys' Eyes Only under a protective order issued in this case (Dkt. No. 44) and should remain sealed. Exhibits 6 and 8-10 of this document should be unsealed. Exhibits 6 and 8-10 do not contain any confidential information.

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242	N/A	Exhibits 11-20 to the Declaration of Christopher D. Pham in Support of Defendant's Motion to Compel Discovery	<p>(a) The parties agree Exhibits 11-15, 17 should remain under seal.</p> <p>(b) The parties agree that Exhibits 16, 18-20 should be unsealed.</p> <p>(c) None.</p>		<p>Exhibits 11-15 and 17 in this document should remain sealed. The Exhibits contain contracts and settlement agreements with third parties, which reflect FICO's confidential pricing information. FICO would experience economic harm, including competitive harm, if the pricing information and settlement terms in this document were made public. FICO's competitors could use this information to target FICO's customers and undercut FICO's pricing. Public knowledge of FICO's pricing information would also place FICO at a disadvantage when negotiating with potential customers.</p> <p>This commercial information has been designated Confidential, Attorneys' Eyes Only under a protective order issued in this case (Dkt. No. 44) and should remain sealed.</p> <p>Exhibits 16 and 18-20 of this document should be unsealed. Exhibits 16 and 18-20 do not contain any confidential information.</p>

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243	N/A	Exhibits 21-30 to the Declaration of Christopher D. Pham in Support of Defendant's Motion to Compel Discovery	(a) The parties agree Exhibits 23-26, 28, 30 should remain under seal. (b) The parties agree that Exhibits 21-22, 27, 29 should be unsealed. (c) None.	Exhibits 23-26 contain the confidential information of the third party Oracle America Inc. ("Oracle"). Oracle produced these documents pursuant to Federal's subpoena dated February 21, 2019, and designated these documents "Confidential" under the protective order issued in this case. (Dkt. 44.)	Exhibits 23-26, 28, and 30 of this document should remain sealed. These Exhibits were filed under seal to protect the commercially confidential information of FICO and non-party Oracle. If this information is unsealed, FICO and Oracle may experience economic harm, including competitive harm. This commercial information has been designated Confidential or Confidential, Attorneys' Eyes Only under a protective order issued in this case (Dkt. No. 44). Exhibits 21-22, 27, and 29 of this document should be unsealed. Exhibits 21-22, 27, and 29 do not contain any confidential information.

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244	N/A	Exhibits 31-35 to the Declaration of Christopher D. Pham in Support of Defendant's Motion to Compel Discovery	<p>(a) The parties agree Exhibits 31-33 and 35 should remain under seal.</p> <p>(b) The parties agree that Exhibit 34 should be unsealed.</p> <p>(c) None.</p>		<p>Exhibits 31-33 and 35 in this document should remain sealed. The Exhibits contain documents that reflect FICO's confidential pricing information and pricing processes, including its application-based pricing model. The Exhibits also contain a confidential settlement agreement with pricing information. FICO would experience economic harm, including competitive harm, if the pricing information in this document was made public. FICO's competitors could use this information to target FICO's customers and undercut FICO's pricing. Public knowledge of FICO's pricing information would also place FICO at a disadvantage when negotiating with potential customers.</p> <p>This commercial information has been designated Confidential, Attorneys' Eyes Only under a protective order issued in this case (Dkt. No. 44) and should remain sealed.</p> <p>Exhibit 34 of this document should be unsealed. Exhibit 34 does not contain any confidential information.</p>

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245	N/A	Exhibits 36 to the Declaration of Christopher D. Pham in Support of Defendant's Motion to Compel Discovery	(a) The parties agree this document should remain under seal. (b) None. (c) None.		This document should remain sealed. This document contains a contract and settlement agreement, which reflects FICO's confidential pricing information. FICO would experience economic harm, including competitive harm, if the pricing information and settlement terms in this document were made public. FICO's competitors could use this information to target FICO's customers and undercut FICO's pricing. Public knowledge of FICO's pricing information would also place FICO at a disadvantage when negotiating with potential customers. This commercial information has been designated Confidential, Attorneys' Eyes Only under a protective order issued in this case (Dkt. No. 44) and should remain sealed.

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246	N/A	Exhibits 37-40 to the Declaration of Christopher D. Pham in Support of Defendant's Motion to Compel Discovery	(a) The parties agree this document should remain under seal. (b) None. (c) None.		This document should remain sealed. This document contains contracts and settlement agreements, which reflect FICO's confidential pricing information. FICO would experience economic harm, including competitive harm, if the pricing information and settlement terms in this document were made public. FICO's competitors could use this information to target FICO's customers and undercut FICO's pricing. Public knowledge of FICO's pricing information would also place FICO at a disadvantage when negotiating with potential customers. This commercial information has been designated Confidential, Attorneys' Eyes Only under a protective order issued in this case (Dkt. No. 44) and should remain sealed.

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247	N/A	Exhibits 41-43 to the Declaration of Christopher D. Pham in Support of Defendant's Motion to Compel Discovery	(a) The parties agree this document should remain under seal. (b) None. (c) None.		This document should remain sealed. This document contains contracts with third parties, which reflect FICO's confidential pricing information. FICO would experience economic harm, including competitive harm, if the pricing information and terms in this document were made public. FICO's competitors could use this information to target FICO's customers and undercut FICO's pricing. Public knowledge of FICO's pricing information would also place FICO at a disadvantage when negotiating with potential customers. This commercial information has been designated Confidential, Attorneys' Eyes Only under a protective order issued in this case (Dkt. No. 44) and should remain sealed.

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248	N/A	Exhibit 44 Part A to the Declaration of Christopher D. Pham in Support of Defendant's Motion to Compel Discovery	(a) The parties agree this document should remain under seal. (b) None. (c) None.		This document should remain sealed. This document contains contracts with third parties, which reflect FICO's confidential pricing information. FICO would experience economic harm, including competitive harm, if the pricing information and terms in this document were made public. FICO's competitors could use this information to target FICO's customers and undercut FICO's pricing. Public knowledge of FICO's pricing information would also place FICO at a disadvantage when negotiating with potential customers. This commercial information has been designated Confidential, Attorneys' Eyes Only under a protective order issued in this case (Dkt. No. 44) and should remain sealed.

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249	N/A	Exhibit 44 Part B to the Declaration of Christopher D. Pham in Support of Defendant's Motion to Compel Discovery	(a) The parties agree this document should remain under seal. (b) None. (c) None.		This document should remain sealed. This document contains contracts with third parties, which reflect FICO's confidential pricing information. FICO would experience economic harm, including competitive harm, if the pricing information and terms in this document were made public. FICO's competitors could use this information to target FICO's customers and undercut FICO's pricing. Public knowledge of FICO's pricing information would also place FICO at a disadvantage when negotiating with potential customers. This commercial information has been designated Confidential, Attorneys' Eyes Only under a protective order issued in this case (Dkt. No. 44) and should remain sealed.

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250	N/A	Exhibits 45-48 to the Declaration of Christopher D. Pham in Support of Defendant's Motion to Compel Discovery	(a) The parties agree this document should remain under seal. (b) None. (c) None.		This document should remain sealed. This document contains contracts with third parties, which reflect FICO's confidential pricing information. FICO would experience economic harm, including competitive harm, if the pricing information and terms in this document were made public. FICO's competitors could use this information to target FICO's customers and undercut FICO's pricing. Public knowledge of FICO's pricing information would also place FICO at a disadvantage when negotiating with potential customers. This commercial information has been designated Confidential, Attorneys' Eyes Only under a protective order issued in this case (Dkt. No. 44) and should remain sealed.

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251	N/A	Exhibit 50 to the Declaration of Christopher D. Pham in Support of Defendant's Motion to Compel Discovery	(a) The parties agree this document should remain under seal. (b) None. (c) None.		This document should remain sealed. This document contains a contract with a third party, which reflects FICO's confidential pricing information. FICO would experience economic harm, including competitive harm, if the pricing information and terms in this document were made public. FICO's competitors could use this information to target FICO's customers and undercut FICO's pricing. Public knowledge of FICO's pricing information would also place FICO at a disadvantage when negotiating with potential customers. This commercial information has been designated Confidential, Attorneys' Eyes Only under a protective order issued in this case (Dkt. No. 44) and should remain sealed.

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252	N/A	Exhibits 52-58 to the Declaration of Christopher D. Pham in Support of Defendant's Motion to Compel Discovery	(a) The parties agree Exhibits 52 and 54-58 should remain under seal. (b) The parties agree Exhibit 53 should be unsealed. (c) None.		Exhibits 52 and 54-58 of this document should remain sealed. The Exhibits contain contracts, testimony, and communications that reflect FICO's confidential pricing information. FICO would experience economic harm, including competitive harm, if the pricing information and terms in this document were made public. FICO's competitors could use this information to target FICO's customers and undercut FICO's pricing. Public knowledge of FICO's pricing information would also place FICO at a disadvantage when negotiating with potential customers. The document also contains FICO's privilege log. Disclosure of this document to the public identifies FICO's confidential communications related to negotiating contracts, enforcing its contracts, pricing, and other related topics. This commercial information has been designated Confidential, Attorneys' Eyes Only under a protective order issued in this case (Dkt. No. 44) and should remain sealed. Exhibit 53 of this document should be unsealed. Exhibit 53 does not contain any confidential information.

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253	N/A	Exhibit 49 Part A to the Declaration of Christopher D. Pham in Support of Defendant's Motion to Compel Discovery	(a) The parties agree this document should remain under seal. (b) None. (c) None.		This document should remain sealed. This document contains a contract with a third party, which reflects FICO's confidential contracting terms. FICO would experience economic harm, including competitive harm, if the terms in this document were made public. FICO's competitors could use this information to target FICO's customers and offer more favorable terms. Public knowledge of FICO's terms would also place FICO at a disadvantage when negotiating with potential customers. This commercial information has been designated Confidential, Attorneys' Eyes Only under a protective order issued in this case (Dkt. No. 44) and should remain sealed.

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254	N/A	Exhibit 49 Part B to the Declaration of Christopher D. Pham in Support of Defendant's Motion to Compel Discovery	(a) The parties agree this document should remain under seal. (b) None. (c) None.		This document should remain sealed. This document contains a contract with a third party, which reflects FICO's confidential contracting terms. FICO would experience economic harm, including competitive harm, if the terms in this document were made public. FICO's competitors could use this information to target FICO's customers and offer more favorable terms. Public knowledge of FICO's terms would also place FICO at a disadvantage when negotiating with potential customers. This commercial information has been designated Confidential, Attorneys' Eyes Only under a protective order issued in this case (Dkt. No. 44) and should remain sealed.

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255	N/A	Exhibit 51 Part A to the Declaration of Christopher D. Pham in Support of Defendant's Motion to Compel Discovery	(a) The parties agree this document should remain under seal. (b) None. (c) None.		This document should remain sealed. This document contains a contract with a third party, which reflects FICO's confidential pricing information. FICO would experience economic harm, including competitive harm, if the pricing information and terms in this document were made public. FICO's competitors could use this information to target FICO's customers and undercut FICO's pricing. Public knowledge of FICO's pricing information would also place FICO at a disadvantage when negotiating with potential customers. This commercial information has been designated Confidential, Attorneys' Eyes Only under a protective order issued in this case (Dkt. No. 44) and should remain sealed.

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256	N/A	Exhibit 51 Part B to the Declaration of Christopher D. Pham in Support of Defendant's Motion to Compel Discovery	(a) The parties agree this document should remain under seal. (b) None. (c) None.		This document should remain sealed. This document contains a contract with a third party, which reflects FICO's confidential pricing information. FICO would experience economic harm, including competitive harm, if the pricing information and terms in this document were made public. FICO's competitors could use this information to target FICO's customers and undercut FICO's pricing. Public knowledge of FICO's pricing information would also place FICO at a disadvantage when negotiating with potential customers. This commercial information has been designated Confidential, Attorneys' Eyes Only under a protective order issued in this case (Dkt. No. 44) and should remain sealed.

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261	N/A	Exhibits 2-6 to the Declaration of Christopher D. Pham in Support of Defendant's Memorandum in Opposition to Plaintiff's Motion to Strike Defendants' Disclosed Witnesses	(a) The parties agree this document should remain under seal. (b) None. (c) None.		This document should remain sealed. This document was filed under seal to protect Federal's commercially confidential information, including information regarding Federal's revenues, premiums and other financial information. It contains information designated as "Confidential" under a protective order issued in this case (Dkt. No. 44).

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263	N/A	Exhibit 8 to the Declaration of Christopher D. Pham in Support of Defendant's Memorandum in Opposition to Plaintiff's Motion to Strike Defendants' Disclosed Witnesses	(a) The parties agree this document should remain under seal. (b) None. (c) None.		This document should remain sealed. The document was filed under seal to protect FICO's commercially confidential information. The document reveals FICO's confidential pricing information and pricing processes, including its application-based pricing model. FICO would experience economic harm, including competitive harm, if the pricing information in this document was made public. FICO's competitors could use this information to target FICO's customers and undercut FICO's pricing. Public knowledge of FICO's pricing information would also place FICO at a disadvantage when negotiating with potential customers. This commercial information has been designated Confidential, Attorneys' Eyes Only under a protective order issued in this case (Dkt. No. 44) and should remain sealed.

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266	N/A	Plaintiff Fair Isaac Corporation's Memorandum in Opposition to Defendants' Motion to Compel	<p>(a) The parties agree this document should remain under seal.</p> <p>(b) None.</p> <p>(c) None.</p>		<p>This document should remain sealed. The memorandum was filed under seal to protect FICO's commercially confidential information, which appears throughout the memorandum. The memorandum reveals FICO's confidential pricing information and pricing processes, including its application-based pricing model. Cited testimony describes FICO's methodology for pricing licenses, including standard pricing, application of discounts, and FICO's rationale for granting discounts. FICO would experience economic harm, including competitive harm, if the pricing information in this document was made public. FICO's competitors could use this information to target FICO's customers and undercut FICO's pricing. Public knowledge of FICO's pricing information would also place FICO at a disadvantage when negotiating with potential customers.</p> <p>This commercial information has been designated Confidential, Attorneys' Eyes Only under a protective order issued in this case (Dkt. No. 44) and should remain sealed.</p>

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269	N/A	Exhibit 1 to the Declaration of Heather J. Kliebenstein in Support of Plaintiff Fair Isaac Corporation's Memorandum in Opposition to Defendants' Motion to Compel	(a) The parties agree this document should remain under seal. (b) None. (c) None.		This document should remain sealed. This document contains documents that reflect FICO's confidential pricing information and pricing processes, including its application-based pricing model. FICO would experience economic harm, including competitive harm, if the pricing information in this document was made public. FICO's competitors could use this information to target FICO's customers and undercut FICO's pricing. Public knowledge of FICO's pricing information would also place FICO at a disadvantage when negotiating with potential customers. This commercial information has been designated Confidential, Attorneys' Eyes Only under a protective order issued in this case (Dkt. No. 44) and should remain sealed.

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269-1	N/A	Exhibit 2 to the Declaration of Heather J. Kliebenstein in Support of Plaintiff Fair Isaac Corporation's Memorandum in Opposition to Defendants' Motion to Compel	(a) The parties agree this document should remain under seal. (b) None. (c) None.		This document should remain sealed. This document contains documents that reflect FICO's confidential pricing information and pricing processes, including its application-based pricing model. FICO would experience economic harm, including competitive harm, if the pricing information in this document was made public. FICO's competitors could use this information to target FICO's customers and undercut FICO's pricing. Public knowledge of FICO's pricing information would also place FICO at a disadvantage when negotiating with potential customers. This commercial information has been designated Confidential, Attorneys' Eyes Only under a protective order issued in this case (Dkt. No. 44) and should remain sealed.

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269-2	N/A	Exhibit 3 to the Declaration of Heather J. Kliebenstein in Support of Plaintiff Fair Isaac Corporation's Memorandum in Opposition to Defendants' Motion to Compel	(a) The parties agree this document should remain under seal. (b) None. (c) None.		This document should remain sealed. This document contains deposition testimony that reflects FICO's confidential pricing information and pricing processes, including its application-based pricing model. FICO would experience economic harm, including competitive harm, if the pricing information in this document was made public. FICO's competitors could use this information to target FICO's customers and undercut FICO's pricing. Public knowledge of FICO's pricing information would also place FICO at a disadvantage when negotiating with potential customers. This commercial information has been designated Confidential, Attorneys' Eyes Only under a protective order issued in this case (Dkt. No. 44) and should remain sealed.

DKT. NO.	DKT. NO. OF REDACTED VERSION (IF FILED)	DESCRIPTION OF DOCUMENT	PRECISELY IDENTIFY: a) The information that the parties agree should remain sealed; b) The information the parties agree should be unsealed; and c) The information about which the parties disagree.	NONPARTY THAT DESIGNATED DOC. CONFIDENTIAL (IF ANY)	REASON WHY DOCUMENT SHOULD REMAIN SEALED OR BE UNSEALED
269-3	N/A	Exhibit 4 to the Declaration of Heather J. Kliebenstein in Support of Plaintiff Fair Isaac Corporation's Memorandum in Opposition to Defendants' Motion to Compel	(a) The parties agree this document should remain under seal. (b) None. (c) None.		<p>This document should remain sealed. This document contains deposition testimony that reflects FICO's confidential pricing information and pricing processes, including its application-based pricing model. FICO would experience economic harm, including competitive harm, if the pricing information in this document was made public. FICO's competitors could use this information to target FICO's customers and undercut FICO's pricing. Public knowledge of FICO's pricing information would also place FICO at a disadvantage when negotiating with potential customers.</p> <p>This commercial information has been designated Confidential, Attorneys' Eyes Only under a protective order issued in this case (Dkt. No. 44) and should remain sealed.</p>

DKT. NO.	DKT. NO. OF REDACTED VERSION (IF FILED)	DESCRIPTION OF DOCUMENT	PRECISELY IDENTIFY: a) The information that the parties agree should remain sealed; b) The information the parties agree should be unsealed; and c) The information about which the parties disagree.	NONPARTY THAT DESIGNATED DOC. CONFIDENTIAL (IF ANY)	REASON WHY DOCUMENT SHOULD REMAIN SEALED OR BE UNSEALED
269-4	N/A	Exhibit 5 to the Declaration of Heather J. Kliebenstein in Support of Plaintiff Fair Isaac Corporation's Memorandum in Opposition to Defendants' Motion to Compel	(a) The parties agree this document should remain under seal. (b) None. (c) None.		This document should remain sealed. This document contains documents that reflect FICO's confidential pricing information and pricing processes, including its application-based pricing model. FICO would experience economic harm, including competitive harm, if the pricing information in this document was made public. FICO's competitors could use this information to target FICO's customers and undercut FICO's pricing. Public knowledge of FICO's pricing information would also place FICO at a disadvantage when negotiating with potential customers. This commercial information has been designated Confidential, Attorneys' Eyes Only under a protective order issued in this case (Dkt. No. 44) and should remain sealed.

DKT. NO.	DKT. NO. OF REDACTED VERSION (IF FILED)	DESCRIPTION OF DOCUMENT	PRECISELY IDENTIFY: a) The information that the parties agree should remain sealed; b) The information the parties agree should be unsealed; and c) The information about which the parties disagree.	NONPARTY THAT DESIGNATED DOC. CONFIDENTIAL (IF ANY)	REASON WHY DOCUMENT SHOULD REMAIN SEALED OR BE UNSEALED
269-5	N/A	Exhibit 11 to the Declaration of Heather J. Kliebenstein in Support of Plaintiff Fair Isaac Corporation's Memorandum in Opposition to Defendants' Motion to Compel	(a) The parties agree this document should remain under seal. (b) None. (c) None.		This document should remain sealed. This document contains deposition testimony regarding how FICO negotiates with parties who breach agreements. Disclosure of this information would cause FICO to experience economic harm, including competitive harm, if the negotiating strategies are revealed. Public knowledge of FICO's negotiating strategies would place FICO at a disadvantage when negotiating with customers who have breached the agreements. This commercial information has been designated Confidential, Attorneys' Eyes Only under a protective order issued in this case (Dkt. No. 44) and should remain sealed.

Dated: May 3, 2019

MERCHANT & GOULD P.C.

/s/ Heather Kliebenstein

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